



An Energy Efficiency Workshop & Exposition

Kansas City, Missouri

The Fine Print ***Army Policy Issues***

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ESPC & A-76

- o **Problem:** A proposed ESPC task order would causing some government employees to lose their jobs. The bargaining unit maintained that the government needed to use the A-76 process.
- o **Solution:** Legal opinion issued by TJAG
 - Purpose of ESPC contract is energy savings not outsourcing
 - ESPC is authorized by specific legislation and A-76 does not preempt or override other laws.

RCI & ESPC/UESC

- o **Problem:** How do we deal with an existing ESPC/UESC contract when privatizing Army Family Housing?
- o **Solution:**
 - Have RCI developer buyout ECMs or take over payment stream.
 - Installation/Army buyout ECMs
- o **Recommendation to Installations:**
 - Don't do ESPC projects in housing that will be privatized.
 - Don't do UESC in housing if payment stream extends past RCI award date.

- **Problem #1:** We don't have money for the up-front costs.
- **Solution:** Use central funding to initiate contract work, AND program funds to pay future costs.

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- **Problem #2:** Savings disappears from installation budgets once ESPC is implemented.
- **Solution:** Program ESPC payments as fixed, must-fund contract payments.

Congressional Notification

- **Problem:** Does my task order need a Congressional Notification?
- **Solution:**
 - All projects with a cancellation liability of \$10 million or more must be notified to Congressional Committees. Process takes about 6-8 weeks to complete.
 - Army's previous policy of installation-wide notifications is no longer acceptable.

Using ESPC to Purchase Fuel

- o **Problem:** Can I use my ESPC contract to purchase natural gas, electricity or fuel oil?
- o **Solution:** Legal community is divided on this issue.
- o **Recommendation to Installations:** Since energy prices are not very stable, HQDA recommends that installation NOT use the ESPC as a vehicle to purchase fuel. DA policy memorandum is “in the works”.